



SCHOOL OF LAW  
CASE WESTERN RESERVE  
UNIVERSITY

## Case Western Reserve Law Review

---

Volume 20 | Issue 4

---

1969

# The Rent Supplement Program: Its Operations and the Alternatives

Elizabeth Kinney

Follow this and additional works at: <https://scholarlycommons.law.case.edu/caselrev>



Part of the [Law Commons](#)

---

### Recommended Citation

Elizabeth Kinney, *The Rent Supplement Program: Its Operations and the Alternatives*, 20 Case W. Res. L. Rev. 776 (1969)  
Available at: <https://scholarlycommons.law.case.edu/caselrev/vol20/iss4/5>

This Article is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Case Western Reserve Law Review by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.

## The Rent Supplement Program: Its Operations and the Alternatives

*Elizabeth Kinney*

**U**NDER THE rent supplement program,<sup>1</sup> the federal government contracts with private nonprofit sponsors to subsidize the rent of low-income individuals and families by the difference between 25 percent of the tenant's income and the rent charged.<sup>2</sup> The Federal

THE AUTHOR: ELIZABETH KINNEY (A.B., Wellesley College; J.D., University of Michigan) is a practicing attorney in Cleveland, Ohio, and a member of the Ohio Bar.

Housing Administration (FHA) approves each nonprofit sponsor, and it certifies the sponsor's prospective site, construction or rehabilitation plans, and rental rates. After the local FHA office approves

a proposal, it requests a reservation of rent supplement funds from the regional office. The mortgagor and FHA execute the actual rent supplement contract immediately before the initial mortgage closing. Construction usually begins shortly thereafter. During the construction phase, tenant applications are generally accepted and processed. The sponsor selects the tenants for its units with local FHA approval of the selections. The incomes of tenants who are to receive rent supplements must be within the income limits applicable to public housing tenants in the area.<sup>3</sup>

The program represents an attempt to provide the government with a flexible instrument through which to implement the national housing objectives reflected in the housing legislation enacted since 1937.<sup>4</sup> These objectives include the creation of better neighbor-

---

<sup>1</sup> The program was created by section 101 of the Housing and Urban Development Act of 1965, 12 U.S.C. § 1701s (Supp. III, 1968). The housing for which rent supplements are made available must be owned by "a private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited dividend legal entity, or a cooperative housing corporation, which is a mortgagor under section 1715l(d) (3) of this title . . ." *Id.* § 1701s(b).

<sup>2</sup> For discussion of necessary qualifications for these families and individuals, see text accompanying notes 36-46 *infra*.

<sup>3</sup> *Id.*

<sup>4</sup> The United States Housing Act of 1937, 42 U.S.C. § 1401 (Supp. III, 1968), created the public housing program to "remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of low income." This initial statement of purpose was supplemented by the Housing Act of 1949, 42 U.S.C. § 1441 (Supp. III, 1968), which authorized urban renewal and slum

hoods through the construction of new and rehabilitated low-income housing and the gradual elimination of substandard housing structures and overcrowded living quarters.<sup>5</sup> The principle policies to be utilized in attaining these objectives were set forth in the Housing Act of 1949 as follows: (1) encourage participation by private enterprise; (2) where feasible, provide direct government assistance to enable private enterprise to bear more of the burden; (3) seek the assistance of local groups in the development of well-planned, integrated residential neighborhoods and communities and in the production of comfortable and sturdy low-cost housing; (4) utilize government aid to eliminate substandard and other inadequate urban and nonfarm housing and provide adequate housing where such was not being provided by private enterprise without such aid; and (5) extend governmental assistance to farm owners in certain circumstances.<sup>6</sup> President Johnson had hoped that the rent supplement program with its active reliance on local groups and private enterprise, would establish itself as the principal federal program for executing the national housing policy objectives for low-income families.<sup>7</sup> However, the Chief Executive's enthusiasm did not permeate Capitol Hill, and it was only after considerable debate that Congress authorized the creation of the rent supplement program on an experimental basis.<sup>8</sup> Moreover, the subsequent appropriations for the program have remained well below the authorized limits.<sup>9</sup> The appropriation history demonstrates congressional hesitancy to fund

---

clearance in order to implement "the goal of a decent home and suitable living environment for every American family." These objectives were reaffirmed in the Housing and Urban Development Act of 1968, 12 U.S.C.A. § 1701t (1969).

<sup>5</sup> *Hearings on H.R. 5840 and Related Bills Before the Subcomm. on Housing of the House Comm. on Banking and Currency*, 89th Cong., 1st Sess., pt. 1, at 72 (1965) [hereinafter cited as 1965 *House Hearings*].

<sup>6</sup> 42 U.S.C. § 1441 (Supp. III, 1968).

<sup>7</sup> When he introduced the program President Johnson stated: "The most crucial new instrument in our effort to improve the American city is the rent supplement." 1965 *House Hearings*, *supra* note 5, at 72.

<sup>8</sup> 12 U.S.C. § 1701s(h) (Supp. III, 1968). See generally 1965 *House Hearings*, *supra* note 5.

<sup>9</sup> The amounts (in millions) authorized and appropriated to date are as follows:

Statutory Authority		Authority Approved	
Annual		Annual	
Aug. 10, 1965	\$30		
July 1, 1966	\$35	1966	\$12
July 1, 1967	\$40	1967	\$20
July 1, 1968	\$45	1968	\$10*

Source: *Hearings on H.R. 9960 Before the Subcomm. of the Senate Comm. on Appropriations*, 90th Cong., 1st Sess., pt. 2, at 214 (1967). \*Source: THE BUDGET OF THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 1970, at 520 (1969) (Appendix).

the program adequately and to utilize it as the major tool to provide low-income housing. In light of these developments and the need for additional low-income housing,<sup>10</sup> this article assesses the potential contribution which a fully funded rent supplement program could make toward achieving the objectives of our national housing policy.

This article first examines the goals of the rent supplement program, and then proceeds to review how the program now operates and assess the meaningful alternative methods of providing housing for the urban poor. Two principal housing programs in which heavy reliance is placed on nonprofit organizations by the Housing and Urban Development Department (HUD) for its administration include:

(1) The Section 221(d)(3) BMIR [below market interest rate] program which provides long term FHA loans at 3 percent interest rate . . . to housing families of low and moderate income.

(2) The 221(d)(3) rent supplement program which provides long term FHA insured loans at the market rate of interest for the construction or rehabilitation of housing for families of very low income, with a federal rent supplement payment to the project owner to cover the difference between 25 percent of the eligible low income family's income and the economic rent required for the unit.<sup>11</sup>

Two new programs under the Housing and Urban Development Act of 1968,<sup>12</sup> which may either supplement or replace the BMIR and rent supplement programs, are created by section 235 which assists families whose annual income is in the \$3000 to \$7000 range by providing interest subsidies on home mortgages and by section 236 which provides for direct assistance payments to the mortgagee who finances housing for lower income families.

The relative effectiveness of rent supplement programs will be compared to the other viable federal housing programs. The thesis of this article is that, while the rent supplement program has room for improvement in areas which will be suggested, the program does

---

<sup>10</sup> In numerical terms, 24 million units of new housing and 2 million units of rehabilitated housing will be needed for the urban poor in the decade 1967-1977, according to a study by the Department of Housing and Urban Development (HUD) which was used to formulate former President Johnson's housing program. *Hearings on Proposed Housing Legislation for 1967 Before the Senate Subcomm. on Housing and Urban Affairs of the Comm. on Banking and Currency*, 90th Cong., 1st Sess., pt. 1, at 1324 (1967) [hereinafter cited as 1967 *Senate Hearings*]. See also Housing and Urban Development Act of 1968, § 1601, 42 U.S.C.A. § 1441a (Supp. 1969); Nolan, *A Belated Effort to Save Our Cities*, THE REPORTER, Dec. 28, 1967, at 16.

<sup>11</sup> 1967 *Senate Hearings*, *supra* note 10, at 482.

<sup>12</sup> 12 U.S.C.A. § 1701c (1969).

provide a reliable and effective way to finance, build, and sponsor units of decent housing for very low-income families and individuals and, through the utilization of social services provided by project sponsors, it facilitates the creation of an improved social environment for the urban poor characterized by a sense of personal dignity and increased acculturation.

### I. OPERATION OF THE RENT SUPPLEMENT PROGRAM<sup>13</sup>

The present program requires a cooperative effort by private industry, government, and nonprofit groups. The initial impetus must come from a nonprofit group interested in developing low-income housing. Under the present law it must select a development site in a community which has a "workable program for community improvement."<sup>14</sup> Under the 1968 Housing Act, the federal government can advance seed money to the sponsor to get the project started.<sup>15</sup> In addition, the federal government assists the sponsors by providing mortgage insurance and the rent supplement. Private industry participates in the program through its lending institutions and by making available its much-needed expertise in the areas of project design and feasibility, legal advice, and the actual construction and management of property. The nonprofit groups must have the requisite endurance, manpower, and motivation to carry the project to completion. The sponsor thus serves as a catalyst to bring the various community resources to bear on the problem of increasing the supply of decent, safe, and sanitary low-income housing. For this reason, the sponsors are chosen very carefully.

#### A. Sponsor Selection

The sponsor, under FHA requirements, must "have motivation,

---

<sup>13</sup> Regulations for the administration of the rent supplement program are contained in 31 Fed. Reg. 7563-65 (1966). For principal explanatory information, see FEDERAL HOUSING AD. DEPT OF HOUSING & URBAN DEVELOPMENT, NO. 2504, RENT SUPPLEMENT PROGRAM, PUBLIC INFORMATION GUIDE AND INSTRUCTION HANDBOOK (1966), 24 C.F.R. §§ 5.1-80 (1967) [hereinafter cited as HANDBOOK]; and *id.*, NO. 2509 RENT SUPPLEMENT PROGRAM, PROJECT MANAGEMENT OUTLINE (1966) [hereinafter cited as MANAGEMENT OUTLINE].

<sup>14</sup> Under 42 U.S.C. § 1451(c) (Supp. III, 1968), HUD must approve a city's "workable program for community improvement" before a section 1715l(d) (3) mortgages can be issued. Rent supplement payments can be made only to a "housing owner" as defined in 12 U.S.C. § 1701s(b) (Supp. III, 1968). A housing owner is therein defined as a nonprofit group which is a mortgagor under 12 U.S.C. § 1715l(d) (3) (Supp. III, 1968). Therefore the rent supplement program can exist only in communities with such an approved workable program because housing owners (section 1715l(d) (3) mortgagors) can be found only in those communities.

<sup>15</sup> Housing and Urban Development Act of 1968, § 106, 12 U.S.C.A. § 1701x (1969).

reliability, substance, and ability to initiate, complete and provide competent, continuing management of the property."<sup>16</sup> The guidelines established by the FHA stress the need for "continuity and a history of community and social service" as a qualification for successful sponsorship.<sup>17</sup> Generally, this requirement will be most often met by well-established, institutional sponsors, such as churches, labor unions, and fraternal organizations. Nevertheless, in certain circumstances, the guidelines permit "a non-profit group recently formed with a sufficiently broad base of community or neighborhood support" to qualify.<sup>18</sup> Such a locally oriented sponsor is more likely to find cooperative tenants for the project than a national or regional organization which lacks established roots in the community. However, a national or regional organization could serve as a co-sponsor along with a local group. The guidelines further stress the requirement that the nonprofit sponsor's membership, as well as its spokesman, must be motivated "not only by a desire to develop an adequate housing project, but also by a concern for the project's continuing successful operation."<sup>19</sup>

In addition to the motivation, history, and continuing viability of the potential sponsor, the FHA guidelines also stress the financial ability of the sponsor and its ability to attain the necessary professional services for legal and organizational requirements, experienced architectural and engineering personnel, and competent project management.<sup>20</sup> Even though the sponsor is not required to assume liability on the mortgage in the event there is a default which results in a foreclosure action,<sup>21</sup> the FHA intends to screen out financially irresponsible sponsors.<sup>22</sup>

---

<sup>16</sup> MANAGEMENT OUTLINE, *supra* note 13, at 14.

<sup>17</sup> FEDERAL HOUSING AUTHORITY, GUIDELINES FOR EVALUATION OF NONPROFIT SPONSORS 1 (1966) [hereinafter cited as GUIDELINES].

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> HANDBOOK, *supra* note 13, at 3.

<sup>21</sup> URBAN AMERICA INC., NONPROFIT HOUSING RENT SUPPLEMENT PROGRAM UNDER SECTION 221(d)(3), at 4 (no date).

<sup>22</sup> The GUIDELINES, *supra* note 17, at 2, provide that:

Some nonprofit sponsors may assume that the responsibility for the project, particularly in time of stress, rests with the government, the builder, or someone other than themselves; and that their role as sponsor is merely to lend their name to the project. If this attitude exists, it must be dispelled. Sponsors must understand that it is their project, and must evidence a serious intent to provide continuing support and an effective management.

Nonprofit sponsors must understand that the FHA commitment and mortgage insurance are predicated upon FHA's estimate (1) that there will be sufficient mortgage proceeds plus required working capital to build the project,

A new organization in Cleveland, Ohio, the Community Housing Corporation (CHC), is working to lessen the need for a lengthy review of a potential sponsor's ability to design and run a project and to increase the number of available sponsors. This program is designed to pool technical as well as financial resources to assist housing sponsors and small contractors.<sup>23</sup> However, while the provision of needed expertise and financial backing is of considerable assistance to a nonprofit sponsor, the sponsors selected still must be adequately motivated and staffed to carry the project through to completion.

### B. Financial Arrangements

As noted above, under section 221(d)(3) of the National Housing Act,<sup>24</sup> private financial institutions are encouraged to make mortgage-secured loans to rent supplement sponsors. Nevertheless, the Federal National Mortgage Association (FNMA) is authorized to purchase rent supplement mortgages as part of its normal secondary market operations.<sup>25</sup> However, the government encourages nonprofit sponsors to exhaust private financial sources before turning to FNMA.<sup>26</sup>

The total mortgage on a rent supplement project may not exceed \$12.5 million.<sup>27</sup> The mortgage may request FHA to issue a commitment providing for the issuance of advances of mortgage funds during the construction of the project, or the insurance of the mortgage after the completion of the renovation or construction.<sup>28</sup> The premium charged by FHA for this insurance is equal to one half

---

and (2) that the rental or project income will be sufficient to meet all operating expenses and mortgage payments during the full term. Nonprofit sponsors should understand, also, that owning and operating a housing project involves difficult and trying problems, including the possibility that some unforeseen circumstances could cause project funds to run short. They should understand that FHA would expect them to cope with these problems at the time of need by all means at their disposal, such as promotional help, contributive management or services, appeals to membership or affiliated organizations and outright cash contributions.

<sup>23</sup> P.A.T.H., THE PATH REPORT UPDATED 8-9 (March 1969). According to this report, the program has ample financial resources.

<sup>24</sup> 12 U.S.C. 1715l(d)(3) (Supp. III, 1968). Section 101(a)(6) of the Housing Act of 1961 amended the section 221 mortgage insurance program for families displaced by government action to provide more liberal terms and to broaden the program to apply to low- and moderate-income families generally.

<sup>25</sup> URBAN AMERICA INC., *supra* note 21, at 7.

<sup>26</sup> *Id.*

<sup>27</sup> HANDBOOK, *supra* note 13, at 4. However, the regulations suggest that market considerations will favor smaller projects. *Id.*

<sup>28</sup> URBAN AMERICA INC., *supra* note 21, at 6.

of 1 percent of the outstanding principal obligation of the mortgage.<sup>29</sup> As originally established by the Act, the maximum interest rate on projects executed under the rent supplement program was 6 percent per annum, which was the then current market interest rate; the maximum term of the mortgage has remained the lesser of 40 years or a period equal to three quarters of the remaining economic life of the property.<sup>30</sup> However, on an experimental basis, 5 percent of the funds authorized for the rent supplement program may be used in section 221(d)(3) below-market interest rate (BMIR) projects.<sup>31</sup> The mortgages insured under this section are purchased by FNMA because the interest rate permitted is too low to attract private investors. However, the bulk of the loan funds for rent supplement projects was expected and generally has come from private lending institutions.

In addition to regulating the total amount of a rent supplement project mortgage, the local FHA establishes special limitations on the construction costs per unit. These limitations insure that the project will have a modest design and that the rents will be compatible with rent levels prevailing in the community.<sup>32</sup> In any event, the rent supplement may not exceed 70 percent of the fair market rental value nor be under 10 percent.<sup>33</sup>

Tenants receiving rent supplements pay their rent, which is to be 25 percent of their income,<sup>34</sup> directly to the nonprofit sponsor or its managing agent. Similarly, the supplement payments are made by FHA directly to the sponsor who in turn must make mortgage payments and provide for the general maintenance and repair of the building.<sup>35</sup>

---

<sup>29</sup> *Id.*

<sup>30</sup> National Housing Act of 1934, § 221(d)(5), 12 U.S.C. § 1715l(d)(5) (Supp. III, 1968). However, the interest rate was subject to change upon a determination by the Secretary of HUD that the market interest rate had changed. The current market interest rate is 7.5 percent per annum. See N.Y. Times, Jan. 25, 1969, at 1, col. 1.

<sup>31</sup> Housing and Urban Development Act of 1965, § 101(j)(z); 12 U.S.C.A. § 1701s(h) (1969). The minimum interest rate for a mortgage insured under the BMIR program is 3 percent per annum, pursuant to section 221(d)(5) of the National Housing Act.

<sup>32</sup> HANDBOOK, *supra* note 13, at 4.

<sup>33</sup> *Id.* at 11.

<sup>34</sup> Section 201(e)(1) of the Housing and Urban Development Act of 1968, 12 U.S.C.A. § 1701s(d) (1969) amends section 101(d) of the Housing and Urban Development Act of 1965, 12 U.S.C. § 1701s (Supp. III, 1968), to provide for an exclusion from tenant income in the amount of \$300 per minor child of the tenant who is living with the tenant; the section also provides that the earnings of such minors shall not be included in tenant's income.

<sup>35</sup> These costs and other project expenses, such as architectural and legal fees, are



### C. Tenants

The owners of rent supplement projects are responsible for selecting their tenants and may rent units to families or individuals who can afford to pay full market rents or to families and individuals eligible to receive rent supplements, or to both.<sup>36</sup> Before a tenant can receive rent supplements, he must meet certain eligibility requirements. First, his income must generally be within the income limits set for public housing in his locality. Second, he must either have been displaced by government action, live in substandard housing, be handicapped or elderly, or have had his former dwelling destroyed or extensively damaged by a natural disaster.<sup>37</sup> In addition, the total assets of the tenant cannot exceed \$2000 unless the applicant is 62 years of age or older, in which case his assets may have a total value of \$5000. The assets used to calculate these sums include: automobiles, real property, and savings and stocks, minus his indebtedness.<sup>38</sup> Furniture, personal property, and clothing are not counted as assets in the determination of eligibility.<sup>39</sup>

Critics have argued that the asset limitations are too restrictive. According to the 1967 *Senate Hearings on Rent Supplement Assistance to the Elderly*,<sup>40</sup> many persons who meet the income test fail to meet the asset test and, thus, are ineligible for rent supplements. Perhaps this restriction should be changed, particularly since the elderly often have only their savings to provide support and should not be forced to dispose of their savings and become welfare recipients merely to qualify for decent housing at moderate rents.

Tenants apply for rent supplements directly to the project manager who then assists them in completing the required FHA forms. The local FHA office investigates each applicant and determines

---

utilized to set the rental rate per unit which must be approved by FHA and be within the maximum limits set for the locality.

<sup>36</sup> The method of tenant selection has been criticized as likely to lead to housing only for the poor of special interest groups. Krier, *The Rent Supplement Program of 1965; Out of the Ghetto, into the . . . ?*, 19 STANFORD L. REV. 555, 565 (1967). However, the requirement of local FHA approval of each subsidy payment will probably serve to effectively prevent such groups from selecting tenants and obtaining supplements only for their own members. In addition, "[a]lthough tenant selection is up to the housing owner, it is expected that applications would be accepted in the order received." MANAGEMENT OUTLINE, *supra* note 13, at 6.

<sup>37</sup> 12 U.S.C. § 1701s(c) (Supp. III, 1968).

<sup>38</sup> MANAGEMENT OUTLINE, *supra* note 13, at 7.

<sup>39</sup> *Id.*

<sup>40</sup> *Hearings on Rent Supplement Assistance to the Elderly, Before the Senate Subcomm. on Housing for the Elderly of the Senate Special Comm. on Aging*, 90th Cong., 1st Sess. 31 (1967).

whether or not he is eligible to receive a rent supplement. The principal cause of non-eligibility is the prospective tenant's failure to meet the FHA's substandard housing requirement. Tenants' statements of their incomes and assets are reviewed annually, and as their incomes increase their monthly supplements decrease. Eventually, the supplements may be terminated completely; the tenants may then remain in the housing unit by paying the full fair market rent.<sup>41</sup>

In the next section, the actual operation of the rent supplement program in the Hough area of Cleveland will be examined. In connection with this analysis, it will be useful to utilize the three guidelines for national housing policies as articulated by Mr. James Q. Wilson<sup>42</sup> at the hearings on the rent supplement program. First, impoverished individuals and families must be raised to an acceptable standard of living. A broad range of public and private programs, including the housing program, must be brought to bear on the task of strengthening the family unit and providing it with the income to acquire decent housing as well as other essentials of life. Second, racial, religious, and ethnic discrimination must be ended in all parts of the housing market. Third, that level of government with the broadest and most equitable tax base must help support the essential municipal services of the inner city.<sup>43</sup> In his testimony, Mr. Wilson further emphasized that "ultimately, it is people rather than housing we seek to improve and that we are more likely to succeed if we help people directly in a way that permits them to make their own decisions as to how and where they should live."<sup>44</sup> Mr. Wilson's emphasis on helping *people* through housing programs is well taken, and the attempts of several nonprofit sponsors in the Hough area to actively involve tenants in decisions affecting their living arrangements evidence such an interest. Additionally the involvement of tenants in project decision-making has become a major criterion for evaluation of the rent supplement and other similar programs. Particular attention will be given to the operations of these nonprofit sponsors.

---

<sup>41</sup> HANDBOOK, *supra* note 13, at 12.

<sup>42</sup> Director, Joint Center for Urban Studies of M.I.T. and Harvard University.

<sup>43</sup> 1965 *House Hearings*, *supra* note 5, pt. 2, at 815. Mr. Wilson further stated: "Wherever possible, we should support people by giving them the resources they need to better their lot, rather than indirectly, by building projects where they can live but only on the Government's terms. . . . Finally, the bill can be strengthened if we compare the magnitude of the task with the resources that are being requested. If we seriously intend to deal with the human problems associated with housing and urban living, then the authorization being requested here is seriously inadequate. *Id.*

<sup>44</sup> *Id.*

## II. RENT SUPPLEMENTS AT WORK IN HOUGH

The riots in the Hough area<sup>45</sup> of Cleveland in the summer of 1966 caused numerous groups of concerned citizens to look for ways in which they could help solve some of the problems which precipitated the disorder. A number of community groups became involved in the improvement of living conditions for Hough residents by building, with federal assistance, new and rehabilitated housing. At the present time, many of these groups have plans for rent supplement projects, and seven sponsors' projects have been completed or will be completed by the end of 1969.<sup>46</sup> The sponsors include: one union, three church groups, one nonprofit subsidiary of a corporation, one community based group, and one joint community church venture. Together they will have built and rehabilitated 595 housing units for which rent supplements will be available.<sup>47</sup> By 1970 the Hough area will have an estimated 750 to 800 rent supplement units.<sup>48</sup> Two of the seven sponsors — Housing Our People Economically (HOPE), Inc.<sup>49</sup> and The Better Homes for Cleveland Foundation, Inc. (Better Homes)<sup>50</sup> — currently provide social service programs for their tenants.<sup>51</sup> The actual operations of the

---

<sup>45</sup> The area is bounded by Chester and Superior Avenues, East 55th Street, and East 105th Street in Cleveland, Ohio.

<sup>46</sup> HOUGH COMMUNITY COUNCIL, ROAD TO BETTER HOUSING 8 (1968). At least four of the seven sponsors have Hough community members on their boards. *Id.* at 9.

<sup>47</sup> The breakdown on the number of rooms in each unit is as follows: 21 efficiencies, 128 with one bedroom, 179 with two bedrooms, 227 with three bedrooms, 25 with four bedrooms, and 15 with five bedrooms. The units are primarily apartments. However, 36 new townhouses are included in the figures. *Id.* at 11-13.

<sup>48</sup> Interview with Hershel Daniels, Rent Supplement Specialist, Federal Housing Authority Cleveland Office, in Cleveland, Mar. 12, 1969.

<sup>49</sup> HOPE, the recipient of the first grant under the rent supplement program, was organized initially by two housewives (who were residents of the area), two clergymen, the director of the Hough Opportunity Center, a neighborhood organizer employed by the Center, a local real estate broker, and a city planner employed by the city's Urban Renewal Department. Its funds were raised through public contributions. HOPE INC., INFORMATION PAMPHLET 1 (1967).

<sup>50</sup> The Catholic Diocese of Cleveland sponsors this project. It provided \$500,000 in seed money to launch the project and to create a revolving fund for future rehabilitation. Interview with Sister Jeanne Koma, H.M., Family Education Coordinator, The Better Homes for Cleveland Foundation, in Cleveland, Mar. 14, 1969.

These sponsors (HOPE and Better Homes) were selected in part because their use of the rent supplement program is representative and in part because they go beyond the supplement and provide social services for their tenants, thus setting an example for prospective sponsors.

<sup>51</sup> HOUGH COMMUNITY COUNCIL, *supra* note 46, at 9. In addition, one sponsor has a Day Care Center and another has a proposed social service program which is presently unable to obtain financial support. Interview with Herschel Daniels, *supra* note 48.

rent supplement program can be best illustrated by focusing on three important aspects of these two nonprofit sponsors' programs: goals; social services; and tenant selection, leases, and rents.

### *A. Goals of the Programs*

The HOPE trustees initially made a study of the housing conditions in the Hough area and of the provisions of the Housing and Urban Development Act of 1965. The group began with certain presuppositions which included: (1) that established procedures for community renewal in the Hough area had produced no visible change in the housing picture except through land clearances; (2) that nonresident landlords and merchants were collecting the money of Hough area residents and not returning it to the area; (3) that in order for change to take place the local and federal governments, the financial and business community, and the residents of the neighborhood had to work together to achieve meaningful community renewal; and (4) that no program of building rehabilitation would ultimately succeed without a supportive program of human services.<sup>52</sup> In formulating its plans, HOPE emphasized the need for involvement of neighborhood residents in all of the studying, planning, negotiating, and decision-making phases of the effort.<sup>53</sup> Based upon these presuppositions and plans, the group sought and obtained financial support. HOPE then employed consultants, acquired a reconstruction mortgage, employed local skilled and unskilled labor, established an office, and sought and ultimately obtained FHA approval for the rehabilitation of two buildings (Belvidere Apartments) containing 21 suites insured under the section 221(d)(3) BMIR program.<sup>54</sup> The suites were ready for occupancy by February 2, 1967. A second HOPE sponsored rent supplement project with 87 apartments will be ready for partial occupancy during 1969.<sup>55</sup>

The Better Homes for Cleveland Foundation Inc. is presently operated by a professional staff advised by a tenant committee.<sup>56</sup>

---

<sup>52</sup> HOPE INC., *supra* note 49, at 2.

<sup>53</sup> "HOPE's overall objective is the demonstration of the capacity of a community-based corporation to meet the development needs of that community." Enclosure to letter from Clara P. Smith, Communications Assistant, HOPE Inc., to author, Dec. 2, 1968.

<sup>54</sup> HOPE INC., *supra* note 49, at 2.

<sup>55</sup> HOUGH COMMUNITY COUNCIL, *supra* note 46, at 11.

<sup>56</sup> Interview with Sister Jeanne Koma, *supra* note 50. Community representatives were added to the governing board by mid-April 1969.

The Foundation's goal is "to involve all tenants in the organization, control, and maintenance of the [Lexington Square] community and in the many educational and helpful programs for better living."<sup>57</sup> It is in the process of rehabilitating all of the apartment buildings in the six block area called "Lexington Square" which the present owners will sell and which are structurally sound enough to be rehabilitated.<sup>58</sup> There will be 500 apartment units when the planned rehabilitation is completed.<sup>59</sup>

### B. Social Services

Two groups carry out the social services program of HOPE; they are the Human Renewal and Human Services Committees.<sup>60</sup> The membership in the Human Renewal Committee consists primarily of area residents chosen by the chairman. The Human Services Committee includes a director and four neighborhood aides employed to establish working relationships with both present and prospective tenants.<sup>61</sup> The primary function of both groups is to encourage and assist the tenants in developing a capacity to solve their own problems.

By contrast the social service program established by Better Homes is more expansive although its goal is similar.<sup>62</sup> This program has five parts which include a homemaking service, educational services, a community center, a parent-child center, and a tenant

---

<sup>57</sup> BETTER HOMES FOR CLEVELAND FOUNDATION INC., LEXINGTON SQUARE INFORMATION PAMPHLET 4 (Nov. 1968) [hereinafter cited as LEXINGTON SQUARE].

<sup>58</sup> The area is bounded on the north by Lexington Avenue, on the south by Hough Avenue, on the east by East 79th Street, and on the west by East 73rd Street. Most of the present owners have been willing to sell their Lexington Square property. The rehabilitation began in November 1967. Interview with Sister Jeanne Koma, *supra* note 50.

<sup>59</sup> LEXINGTON SQUARE, *supra* note 57, at 1. One hundred are presently occupied, and all of the tenants receive rent supplements. Interview with Sister Jeanne Koma, *supra* note 50.

<sup>60</sup> The principal responsibilities of the Human Renewal Committee include: developing criteria for tenant selection and participating in selection of residents for HOPE properties assisting in problem identification within the community, planning programs for landlord-tenant meetings, assisting tenants in meeting household needs, and helping develop policies for the Human Services Team. HOPE INC., *supra* note 49, at 5.

The Human Services Committee's area of responsibility includes: informing tenants of services available in the community, assisting tenants in the solution of their problems, involving tenants in tenant councils, identifying and developing programs for the solution of community problems, and establishing eviction criteria. *Id.* at 4.

<sup>61</sup> Interview with Guy L. Goens, Director of Human Services, HOPE Inc., in Cleveland, Nov. 10, 1967. In addition to assisting tenants in getting their apartments repaired quickly, the neighborhood aides also help them find jobs and register to vote.

<sup>62</sup> LEXINGTON SQUARE TENANTS' MANUAL 5 (Aug. 1968).

committee.<sup>63</sup> The programs, as of March 1969, have included a homemaking course which met one night a week for 8 weeks, a film club presentation which met one night a week for 5 weeks, a Red Cross home-nursing program, four flower arranging classes, sewing classes, and a Saturday morning children's program which included tutoring, crafts, and trips to places such as the art museum.<sup>64</sup> Thus the range of activities in the Better Homes social service program appears to be broader than that covered by HOPE's program. However, HOPE has more direct contacts with its tenants through the neighborhood aides. Eventually, Better Homes would like to have a tenant visitation program of a similar nature.<sup>65</sup> Both sponsors are actively involved in helping tenants identify and solve their problems. Similarly, both want tenants to take an active role in the operation and management of the program.

The Urban League of Cleveland developed a proposed social service program in the fall of 1967 for residents of Rosewood, another rent supplement project in the Hough area.<sup>66</sup> While as of March 1969 the Urban League program had not been funded and was not in operation, the goals of the program and the means chosen to implement them are of interest. The primary goal is to enable both children and adults to achieve a sense of fulfillment.<sup>67</sup> The

---

<sup>63</sup> *Id.* at 6. The Homemaking Service provides mothers with new ideas on child-rearing, how to keep house, how to decorate homes more colorfully, and how to cook on a limited budget. The Community Center provides a meeting place to talk over problems, make plans, and put on programs.

The tenant committee is designed to let residents have a voice in "how they wish to live." In addition, through this committee, "[t]he people will, in this way, set their own standards, make their own rules." *Id.* The committee is composed of the building representatives (one selected from each building), and neighborhood representatives, such as the Hough Opportunity Center and the Hough Parent-Child Center. Interview with Sister Jeanne Koma, *supra* note 50.

<sup>64</sup> Interview with Sister Jeanne Koma, *supra* note 50.

<sup>65</sup> *Id.*

<sup>66</sup> Rosewood was built by Warner & Swasey Company and was sold approximately at cost to St. John-St. James Housing Inc., a nonprofit corporation. It has 13 three-bedroom units which rent for \$133 per month, and eleven of the units receive rent supplements. The income sources for this group of tenants included five employed family heads, three families on welfare and general relief, and three families on Aid to Families with Dependent Children. Interview with Hershel Daniels, Rent Supplement Specialist, Federal Housing Authority Cleveland Office, in Cleveland, Nov. 10, 1967.

<sup>67</sup> URBAN LEAGUE OF CLEVELAND, PROPOSED PROGRAM FOR THE TENANTS OF THE ROSEWOOD APARTMENTS (Fall 1967). The purpose of the proposed program was

to furnish the residents of the Rosewood Apartments with the necessary strength, motivation, and knowledge to enable each one to adapt to (when necessary), capitalize on, and benefit from our urban society for the purpose of satisfying their personal, basic, and ego needs and becoming assets to society. In short, this is a program designed to equip the Rosewood tenants for life in an American urban society. *Id.* at 2.

program for children focuses on helping the child become proficient as a student and assisting him in his social adjustment. Parents are encouraged to spend more time with their children and to introduce them to children's plays at Karamu (settlement house), crayoning, games, and reading. The adult program emphasizes the development of self-reliance through counseling group discussions and referrals to professional agencies. The program also suggests ways to assist the residents of Rosewood to achieve personal and communal goals. For example, consumer education programs help in the development of proficiency in household management, and tenant councils will be formed and voter education programs are planned.

The principal responsibility for carrying out the program rests with a social service coordinator. According to the proposal: "The personality of the coordinator, his understanding and knowledge of the realities of our society and the needs of the tenants, his ability to relate to hard-core low income individuals, his social work skills, and his dedication to the task at hand will be of major importance in determining the degree of success of the program."<sup>68</sup> Thus, one individual will play an important role in the success of this program.

The more fractured structure of the HOPE program permits several persons to carry the bulk of the responsibility with the success of its program depending upon their ability to coordinate their activities as well as to fulfill their functions. The Better Homes program is less fractured since the staff and tenant council execute it, but internal responsibility also is diffused. Nevertheless, one individual if well qualified and sufficiently motivated, could provide the most efficient way to expedite the social welfare operations of a social service program. The advantage of the group method utilized by HOPE is that it permits greater community and tenant involvement — an important social goal. To some extent, tenant councils perform a similar function; however, their effectiveness turns on the influence which they can assert.

### *C. Tenant Selection, Leases, and Rents*

Tenant selection for HOPE is done by the Human Renewal Committee.<sup>69</sup> This committee conducts preliminary screening of applicants to check their current living situation, their housekeeping

---

<sup>68</sup> *Id.* at 10.

<sup>69</sup> See note 60 *supra*.

habits, and their money management.<sup>70</sup> The first tenants appeared to be quite pleased with their new apartments.<sup>71</sup> The tenants' sources of income varied: eight tenants were employed (two of whom are currently paying full rent); five were assisted by Aid to Dependent Children; one received a veteran's pension; two were on general relief; one was on Social Security; and one received Aid for the Aged.<sup>72</sup> Sixteen households came from substandard housing and two qualified because of age, in addition to meeting the income and asset limitations.<sup>73</sup> The local FHA insuring office has continued to insist on broad distribution in income sources.<sup>74</sup> However, HOPE would have taken any qualified person, and qualified tenants are now taken by HOPE on a first-come, first-serve basis.<sup>75</sup> By March 1969, the Human Renewal Committee had received approximately 100 applications for efficiencies, 100 for one-bedroom units, 75 for two-bedroom units, 100 for three-bedroom units, 75 for four-bedroom units, and 85 for five-bedroom units.<sup>76</sup> Since the Belvidere Apartments contained only efficiencies and one- and two-bedroom units, HOPE is in the process of completing the rehabilitation of some larger units to meet the demand for larger accommodations.

The income mixture in Lexington Square is roughly the same as that in Belvidere. The Better Homes staff selects the tenants, giving first preference to displaced individuals and families.<sup>77</sup> Second preference is given to Hough residents, and the remaining selections are based primarily upon order of application.<sup>78</sup> A break-

---

<sup>70</sup> Telephone interview with Guy L. Goens, Director of Human Services, HOPE Inc., in Cleveland, Mar. 20, 1969. Mr. Goens stated that poor housekeeping habits would not necessarily prevent an applicant from being selected and that on two occasions the Human Renewal Committee had overruled a suggestion by FHA that applicants be rejected because of poor housekeeping habits. The committee also complies with the statutory preferences.

<sup>71</sup> Most of the tenants described the places where they had previously lived as rat and roach infested, lacking maintenance, and having inadequate heating. Nevertheless, none of the original tenants had considered or applied for public housing — some because they did not want to live in a housing project as they had done in their youth, and others because they wanted to stay in their own neighborhood. (These observations were made during a personal inspection tour by the author in November 1967).

<sup>72</sup> Interview with Hershel Daniels, *supra* note 66.

<sup>73</sup> *Id.* The income and asset limitations are discussed in text accompanying notes 37-39 *supra*.

<sup>74</sup> Interview with Hershel Daniels, *supra* note 48.

<sup>75</sup> Telephone interview with Guy L. Goens, *supra* note 70.

<sup>76</sup> *Id.*

<sup>77</sup> Interview with Sister Jeanne Koma, *supra* note 50. This category is one of six set forth in Housing and Urban Development Act of 1965 § 101(c), 12 U.S.C. § 1701s (Supp. III, 1968). For an application of these categories, see note 109 *infra*.

<sup>78</sup> Interview with Sister Jeanne Koma, *supra* note 50.



down on the number of applications for each type of unit was not available; however, Better Homes had received approximately 614 applications for rent supplement apartments by March 1969.

The reasons for eviction vary slightly between the two sponsors. Those established by HOPE's Human Services Committee<sup>79</sup> include: nonpayment of rent; consistent tardiness in payment of rent; failure to adequately clean unit — including failure to dispose of garbage and trash, soiled and damaged walls, and dirty floors; destructiveness of light switches, plumbing, porch railings, door knobs, window glass, plantings, and shrubs; and overcrowding.<sup>80</sup> As of March 1969, no tenant had been evicted. By a joint effort of the tenant council and the Better Homes board the following reasons for eviction have been established: nonpayment of rent; overcrowding of an apartment; loud, noisy parties or other disturbances; use of apartment for immoral or illegal purposes; and refusal to let management enter the apartment to inspect and to make needed repairs.<sup>81</sup> Two families had been evicted by March 1969.<sup>82</sup>

The original leases utilized by these two sponsors also varied in some respects. Essentially, the lease agreement executed by the HOPE tenants provided that the tenant agree to abide by the rules and regulations governing the occupancy of HOPE properties. The lease includes an agreement to submit the housing unit to regular inspection, to attend tenant meetings at least once a month, and to certify to HOPE his income from time to time.<sup>83</sup> The monthly tenant meetings may concern problems that the tenants have encountered with the upkeep of the building or the use of community facilities, or the meetings may be held to plan programs of joint interest, such as the arrangement of a series of sewing lessons.<sup>84</sup> Neither the provision for attendance at meetings nor the agreement to submit hous-

---

<sup>79</sup> See note 60 *supra*.

<sup>80</sup> Memorandum from Guy L. Goens, Director of Human Services, HOPE Inc., to Human Renewal Committee, Oct. 9, 1967. Overcrowding is considered to exist if more persons occupy a unit than as follows: one bedroom — 2 persons; two bedrooms — up to 4 persons; three bedrooms — 5 persons; and four bedrooms — 8 persons. Children under the age of 12 and of opposite sex may share a bedroom, as well as children over 12 and of the same sex.

<sup>81</sup> LEXINGTON SQUARE TENANTS' MANUAL, *supra* note 62, at 9.

<sup>82</sup> Interview with Sister Jeanne Koma, *supra* note 50.

<sup>83</sup> The HOPE lease has subsequently been modified to eliminate the requirement that the tenant be subject to regular inspections and attend monthly meetings.

<sup>84</sup> The Citizens Housing Association, a group of community residents and tenants organized by HOPE, serves to inform the tenants of their rights and responsibilities under the present housing codes and administrative regulations, to apprise both landlords and tenants of their obligations to maintain housing and to mediate between tenants and landlords.

ing units to periodic inspection is customarily included in a commercial lease. For most of the tenants, the weekly visits of neighborhood aides and the occasional meetings seemed to be a small price to pay for their clean, new apartments. On the other hand, the lease utilized by Better Homes does not contain any provisions related to attendance at tenant meetings or visits by neighborhood aides. The provisions in it generally relate to maintenance of the apartment and to reports of income and asset changes.<sup>85</sup> Thus, while Better Homes has organized a tenants' council, it has done so without requiring attendance at regular tenant meetings.

The rent schedules differ between HOPE's Belvidere Apartments and Better Homes' Lexington Square.<sup>86</sup> The reason for the difference is that the mortgage on Belvidere is under the section 221(d)(3) below market interest rate program, whereas, the Lexington Square mortgages are under the section 221(d)(3) market interest rate program.<sup>87</sup> Since the interest charge to HOPE is less (3 percent instead of 6 percent), it can afford to charge lower rents. As noted above, only 5 percent of the money allocated for rent supplements can be used in connection with a section 221(d)(3) below market interest rate.<sup>88</sup> The reason for this may be that Congress wanted private investors and not FNMA to buy the mortgages. However, the provision makes the rent schedules required to be used to cover project costs quite high. As a result, most individuals and families who can afford to pay full rent do not want to live in the rent supplement units, and consequently, the goal of having an economic mixture in rent supplement apartments is not being met. In addition, the rates are high enough to exclude many individuals and families whose annual incomes are in the \$2000 to \$3000 range.<sup>89</sup>

<sup>85</sup> The Better Homes lease is the FHA "Model Form of Lease" for use under the rent supplement program. It is FHA Form No. 2503A with an addendum related to reporting asset changes.

<sup>86</sup> The monthly rent charged by the sponsors with FHA approval by size of unit is as follows:

	Efficiency	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom
Belvidere	\$ 80.00	\$ 95.00	\$107.25		
Lex. Sq.	\$105.00 (\$125.00)	\$130.00 (\$155.00)	\$150.00 (\$178.00)	\$175.00 (\$206.00)	\$175.00 (\$221.00)

Source: HOUGH COMMUNITY COUNCIL, *supra* note 46, at 11-12. The figures in parentheses are the new rent supplement maximum rates set forth in a FHA circular dated February 28, 1969.

<sup>87</sup> See text accompanying notes 30-31 *supra*.

<sup>88</sup> *Id.*

<sup>89</sup> For the income limits in the rent supplement program, see text accompanying note 126 *infra*.

### III. ALTERNATIVES TO THE RENT SUPPLEMENT PROGRAM

The principal alternative methods of creating low-income housing are public housing, private construction with National Housing Act section 221(d)(3) BMIR loans, and now the section 235 mortgage interest-subsidy program created by the Housing and Urban Development Act of 1968.<sup>90</sup>

#### A. Public Housing

The operation of the public housing program in Cleveland provides a useful comparison with the rent supplement program. The Cleveland Metropolitan Housing Authority (CMHA) is the local body responsible for executing the public housing program.<sup>91</sup> Currently, it operates 15 apartment complexes containing 7817 units and it leases 208 units<sup>92</sup> under the leased public housing program established by the Housing and Urban Development Act of 1965.<sup>93</sup>

The Public Housing Authority created by the 1937 Housing Act provides financial assistance by making loans to local public housing authorities for up to 90 percent of the development cost of a housing project.<sup>94</sup> In addition, the 1937 Act authorized the making of annual contributions to public housing agencies to assist in achieving and maintaining the low-rent character of their housing projects.<sup>95</sup> However, no annual contributions may be made unless the local authority's property is exempt from all taxation and the governing body for the area in which the authority operates agrees to provide the usual municipal services for the authority's projects.<sup>96</sup> In return, the local authority must pay the local governing body a certain percentage (not over 10 percent) of the annual housing rents charged

---

<sup>90</sup> 12 U.S.C.A. § 1715z (1969).

<sup>91</sup> The creation of CMHA was authorized by OHIO REV. CODE ANN. § 3735.27 (Page 1963).

<sup>92</sup> Telephone interview with Henry Fried, Chief of Management Services for CMHA, in Cleveland, Mar. 21, 1969. Leased public housing is discussed in text accompanying notes 104-07, 119-29 *infra*.

<sup>93</sup> § 103(a), 42 U.S.C. § 1421b (Supp. III, 1968).

<sup>94</sup> United States Housing Act of 1937, § 9, 42 U.S.C. § 1409 (Supp. III, 1968). The interest on these loans is the applicable going federal rate plus one-half of one percent. Loans made after 1949 must be paid within 40 years. *Id.* Compare with terms under rent supplement mortgage programs discussed in text accompanying note 30 *supra*.

<sup>95</sup> United States Housing Act of 1937, § 10(a), 42 U.S.C. § 1410 (Supp. III, 1968). These annual contributions are usually sufficient to cover principal and interest payments.

<sup>96</sup> *Id.* § 10(h). Before annual contributions may be made, a local authority must enter into a cooperation agreement with the local governing body covering these items.

by the authority or some lesser amount as the parties agree.<sup>97</sup> In Cleveland the agreement between CMHA and the City of Cleveland provides that CMHA's annual payment in lieu of taxes may not exceed the amount of the real property taxes which would be assessed if the project were not exempt from taxation.<sup>98</sup> Thus, public housing receives a federal subsidy in the form of annual contributions and a local subsidy in the form of a tax relief. In contrast, the rent supplement subsidy is entirely from the federal government, and it is based upon individual and not upon a local housing authority's needs.

The rent charged by CMHA is approximately 23 percent of net family income regardless of the size of the dwelling or the size of a family.<sup>99</sup> The current income level to qualify for admission to CMHA public housing units (residences) is \$3200 per year for one person, \$4180 for two persons, \$4500 for three persons, \$4675 for four persons, \$5000 for five persons plus \$200 for each additional person.<sup>100</sup> The asset limitations for public housing eligibility provide that net family assets may not exceed twice the admission income maximum.<sup>101</sup> By the end of 1967, the income of over 67.75 percent of all residents in Cleveland's public housing projects came from sources other than employment.<sup>102</sup> Some of these were relief, Aid for the Aged, Social Security, Aid for Families of Dependent Children, and pensions. Thus while income limits for the rent supplement program and the public housing program are the same and the amount of the tenant's income which is paid for rent is similar,<sup>103</sup> the public housing asset limitations are more generous to the tenant. However, there are proportionately more individuals with an income source other than employment in public housing than in the rent supplement program.

---

<sup>97</sup> *Id.* In Cleveland, the payment is 10 percent of aggregate rent charged by the local housing authority during the fiscal year. CLEVELAND METROPOLITAN HOUSING AUTHORITY ANNUAL REPORT § IV, at 1 (1967) [hereinafter cited as CMHA ANNUAL REPORT].

<sup>98</sup> Cooperation Agreement between the City of Cleveland and the Cleveland Metropolitan Housing Authority, Ordinance 2139-49, Cleveland, Ohio, Dec. 14, 1949.

<sup>99</sup> CMHA ANNUAL REPORT, *supra* note 97, § 2, at 1.

<sup>100</sup> HOUGH COMMUNITY COUNCIL, *supra* note 46, at 6. The rent supplement income limits for Cleveland are identical; however, this program additionally allows a \$300 deduction for each dependent, whereas the CMHA program allows only a \$100 deduction per dependent. *Id.* For additional discussion, see text accompanying notes 126 & 132 *infra*.

<sup>101</sup> CMHA ANNUAL REPORT, *supra* note 97, § 2, at 2.

<sup>102</sup> *Id.*

<sup>103</sup> The difference between the percentages of tenant income paid for rent exists because public housing tenants pay for certain utilities while rent supplement tenants have all of their utilities provided.

The lease currently used by public housing tenants in Cleveland differs in several respects from the lease signed by rent supplement tenants. The public housing lease provides for termination upon 15 days written notice of intention to do so by either party.<sup>104</sup> In contrast, a rent supplement tenant's lease is initially executed for 1 year and then continues on a month-to-month basis. Additionally, the public housing lease contains the following provision: "The management shall not be responsible for failure to supply any of the above services for any cause whatsoever, nor shall the resident be entitled to any rebate for interruption of any of these services."<sup>105</sup> Assuming this provision is enforced, the tenant would have no right to complain about disruption of heat service in winter or about discontinuance of any utility for any given amount of time. Neither the HOPE lease nor the Better Homes lease contains such a provision. The difference in lease agreement terms may reflect a more significant difference in the way tenants are treated. Public housing officials must process many applications because their program has many more tenants than most present rent supplement sponsors have or anticipate having; they, therefore, have less time to personalize their treatment of tenants and tend to rely more heavily on fixed and sometimes inequitable rules.<sup>106</sup>

The selection of public housing tenants is done primarily through a central applications office with the guidance of a manual prepared by CMHA.<sup>107</sup> The manual provides that at the time of admission, the applicant's family must have resided in substandard housing, or have been evicted through no fault of their own, or have lived in overcrowded quarters, or under conditions detrimental to health, safety, or morals.<sup>108</sup> The substandard housing requirement may be waived for displaced families (that is, by urban renewal, slum clearance, or other public action), families of veterans or servicemen, and the elderly. The manual provides that applicants, except families of servicemen or veterans, must have resided continuously in Cuyahoga County for at least 1 year prior to filing the application.<sup>109</sup> The rent

---

<sup>104</sup> Lease supplied by Cleveland Metropolitan Housing Authority, dated 1966.

<sup>105</sup> *Id.*

<sup>106</sup> However, the lease utilized by CMHA is currently under revision and the new lease may reflect a new attitude on the part of public housing administrators.

<sup>107</sup> CLEVELAND METROPOLITAN HOUSING AUTHORITY, MANUAL OF SELECTION PROCEDURE (1966) [hereinafter cited as CMHA MANUAL].

<sup>108</sup> *Id.* § 2(e).

<sup>109</sup> *Id.* § 2(f). The order of preference in the selection of public housing residents set forth in the manual gives first preference to residents transferring within a project and second preference to residents transferring between projects. Third preference is

supplement program in Cleveland does not have a 1 year residency requirement; nevertheless, the goal of most of the rent supplement sponsors in Cleveland is to provide decent housing for *residents* of the Hough area so the effect may be the same. Additional factors for consideration in the selection of tenants include the applicant's source of income, the date the application was filed, the rent paying ability of the applicant, and the applicant's preference.<sup>110</sup> However, the manual has a general provision that: "Applications shall be deferred or rejected if it has been ascertained that any anti-social behavior, mental or moral problem exists which would be detrimental to the morals, health, and welfare of other residents or would present difficult or serious community problems."<sup>111</sup> The inherent vagueness of "anti-social behavior" makes application of this standard difficult. Moreover, the person who is to make this determination is not designated, nor does the manual provide for an appeal from an adverse decision.<sup>112</sup> In contrast, the principal concern of the rent supplement sponsors discussed above was the prospective tenant's ability to maintain the apartment in good order, and even that concern did not cause a rejection of the applicant if social services could assist him.

Local public housing authorities are instructed to work "with other agencies in the community to improve the economic and social status of resident families."<sup>113</sup> Hence, the mandate to the local authorities is similar to the social goals for rent supplement recipients as planned by HOPE, the Better Homes for Cleveland Foundation, and the Urban League discussed above. In addition, section 204 of the Housing and Urban Development Act of 1968 amends section

---

given to displaced families in the order prescribed by the 1937 Housing Act. Fourth preference goes to nondisplaced families of veterans and servicemen. The criteria for the selection of other eligible tenants is not outlined in the manual. These preferences may be compared with those under the rent supplement program. See Housing and Urban Development Act of 1965, § 101(c), 12 U.S.C. § 1701s (Supp. III, 1968).

The legality of the one year residency requirement is questionable in light of the recent Supreme Court ruling in *Shapiro v. Thompson*, 37 U.S.L.W. 4333 (U.S. April 21, 1969). In holding a similar residency requirement for welfare benefits unconstitutional, the Court stated: "[T]he purpose of inhibiting the migration of needy persons into the state is constitutionally impermissible. . . . The saving of welfare costs cannot be an independent ground for an invidious classification." *Id.* at 4336-37. These arguments may apply by analogy to public housing.

<sup>110</sup> CMHA MANUAL, *supra* note 107, at § 3(9)(5).

<sup>111</sup> *Id.* § 3(b).

<sup>112</sup> *Durham Housing Authority v. Thorpe*, \_\_\_ U.S. \_\_\_ (1969), ruled such hearing procedure necessary under the Act, CMHA must be promulgating new procedure.

<sup>113</sup> PUBLIC HOUSING AUTHORITY, MANAGEMENT HANDBOOK, pt. 1, § 7 (1963).

15 of the United States Housing Act of 1937 to add subparagraph (10) which provides in part:

The Secretary is authorized to enter into contracts to make grants to public housing agencies to assist, where necessary, in financing tenant services for families living in low-rent housing projects. In making such contracts and grants, the Secretary shall give preference to programs providing for the maximum feasible participation of the tenants in the development and operation of such tenant services.<sup>114</sup>

Of course, this provision is dependent upon appropriations by Congress of the money authorized for the program.<sup>115</sup> While it is clear that the need for social services for public housing tenants is great, such services are also needed for rent supplement recipients. It is difficult to understand why the social service appropriation authorization was made to apply only to the public housing program. The authorization for social service programs should be expanded to include the rent supplement. In that way, good proposals, such as the one prepared for the Rosewood project by the Urban League, and discussed above, would be made available to rent supplement recipients with needs similar to those of individuals in public housing.

*B. Low Interest Private Construction Loans to Finance  
Low and Moderate Income Housing*

The below market interest rate (BMIR) program, under section 221(d)(3) of the National Housing Act,<sup>116</sup> provides governmental assistance for families whose incomes are too high for public housing but not high enough to compete for adequate housing in the private market. Sponsors of BMIR housing may be either governmental agencies, cooperatives, limited dividend corporations, private nonprofit corporations, or other mortgagors approved by FHA.<sup>117</sup> They must be subject to regulation by the FHA "as to rents, charges, and methods of operation."<sup>118</sup> In addition, projects must be located in a community having a workable program for community improve-

---

<sup>114</sup> 42 U.S.C.A. § 1415(10) (Supp. 1969).

<sup>115</sup> See note 141 *infra*.

<sup>116</sup> 12 U.S.C. § 1715l(d)(3) (Supp. III, 1968). The interest rate for mortgagors under this program is 3 percent per annum; the mortgages are bought by FNMA. For use of BMIR in rent supplement program, see note 31 *supra* & accompanying text.

<sup>117</sup> National Housing Act, § 221(d)(3), 12 U.S.C. § 1715l(d)(3) (Supp. III, 1968).

<sup>118</sup> *Id.*

ment.<sup>119</sup> Under this program, the government provides mortgage insurance to qualified sponsors. In addition, the interest rate which the sponsors must pay is reduced through FNMA purchase of the mortgages which may last up to 40 years. Sponsors who utilize this program may lease a portion or all of their units to the local public housing authority under the leased public housing program.<sup>120</sup> Thus this program in combination with the leased public housing program gives a sponsor considerable flexibility in the qualification and terms of selection of tenants.

The income limits for the BMIR units not leased to public housing are set by the FHA according to local construction costs and median family incomes.<sup>121</sup> When a tenant is over the income limit set by the BMIR program, the housing owner may renew the tenant's lease, if the tenant agrees to pay the "adjusted market rent."<sup>122</sup> Under this program tenants are required to certify their income at the time of initial occupancy and to recertify it prior to execution of the third annual lease.<sup>123</sup> Thus, this program has certain similarities to both the public housing and rent supplement programs in terms of its operating procedure.<sup>124</sup>

From 1949 to June 30, 1967, the total number of new and rehabilitated units completed under the BMIR program was 11,647; another 4311 were under construction as of that date.<sup>125</sup> These figures indicate that the program has not been widely utilized. However, the utilization of the program may increase significantly in conjunction with the new public housing leasing program.

The following chart illustrates the comparative maximum in-

---

<sup>119</sup> Housing Act of 1949, § 101(c); 42 U.S.C. § 1451 (Supp. III, 1968).

<sup>120</sup> 42 U.S.C. § 1421b(c) (Supp. III, 1968).

<sup>121</sup> In no case can the income limit established for a locality exceed the median family income for the locality. *Hearings on S. 3497 Before the Senate Subcomm. on Housing and Urban Affairs of the Comm. on Banking and Currency*, 90th Cong., 2d Sess., pt. 2, at 1311 (1968) [hereinafter cited as *1968 Senate Hearings*]. Under this program, the income ceilings in about 75 percent of the localities are based on cost of construction, and the other 25 percent are based on median family income.

<sup>122</sup> "The adjusted market rent is determined by adding to the basic BMIR rent the lesser of (a) the difference between the BMIR rent and the equivalent of full market rent (without benefit of the below-market interest or waiver of FHA mortgage insurance premium), or (b) 25 percent of the amount by which the tenant's income exceeds the maximum limitation." Statement by Robert C. Weaver, former Secretary of HUD, in *id.* at 1313.

<sup>123</sup> *Id.*

<sup>124</sup> Families who have been displaced by governmental action have priority in BMIR tenant selection. Other families whose incomes are within the limits established by FHA can also qualify for occupancy, as can single, elderly, or handicapped persons.

<sup>125</sup> 1968 *Senate Hearings*, *supra* note 121, at 1310.



comes for the rent supplement program, the BMIR program, and the interest subsidy program:<sup>126</sup>

No. in Family	Maximum Income		
	Rent Supplements	BMIR	Int. Sub.
1 -----	\$3200	\$6000	\$4320
2 -----	4180	7300	5645
3 -----	4500	8600	6075
4 -----	4675	8600	6315
5 -----	5000	9900	6750
6 -----	5200	9900	7020
7 -----	5400	11,200	7290
8 -----		11,200	7560

This chart makes it apparent that really low-income individuals cannot utilize the BMIR program in the absence of its utilization in connection with either rent supplements or leased public housing.

In Cleveland, the Hough Housing Corporation has plans to rehabilitate 10 apartment buildings with 105 apartment units under the BMIR program.<sup>127</sup> Hough Development Corporation (HDC) has worked out an informal agreement with CMHA whereby HDC leases directly to CMHA the units which HDC has available for lease as public housing.<sup>128</sup> Mr. John Fockler, president of HDC considered using rent supplements in his program but decided not to do so because of the flexibility in terms of income mixture provided by a combination BMIR and leased public housing program, the additional red tape involved with qualifying tenants for the rent supplement program, and the fact that public housing takes the responsibility for qualifying tenants for leased public housing.<sup>129</sup>

The HDC has recently hired a community worker assigned to its apartments who is responsible for the social services program. His

<sup>126</sup> Interview with Hershel Daniels, *supra* note 48 (rent supplements); Interview with John Fockler, President of Hough Development Corporation, in Cleveland, Mar. 13, 1969 (BMIR); Telephone Interview with William Bowen, Assistant to Director, Federal Housing Authority, Cleveland Office, in Cleveland, Mar. 13, 1969 (interest subsidies).

<sup>127</sup> HOUGH COMMUNITY COUNCIL, *supra* note 46, at 12. The first apartment building rehabilitated was occupied in the fall of 1968. The three buildings, when completed in April 1969, will provide 31 living units at a cost of about \$10,000 a suite. The project is a joint project of the Goodrich Social Settlement and the Cleveland Development Foundation. Cleveland Plain Dealer, Nov. 18, 1968, at 2, col. 1.

<sup>128</sup> Interview with John Fockler, *supra* note 126. The subtenants apply for units with HDC. However, CMHA has to approve each subtenant prior to final acceptance by HDC. The tenant selection process is considerably easier for the nonprofit sponsor under this arrangement.

<sup>129</sup> *Id.* However, Mr. Fockler also stated that he might utilize the rent supplement program in conjunction with the BMIR program if the amount of rent supplements which can be used with the BMIR program is expanded.

duties include in part: (1) strengthening the activities of the present East 90th Street Club; (2) making monthly visits to the tenants of each building; (3) organizing activities for young people and utilizing neighborhood center programs; (4) referring tenants to community agencies for special services; (5) identifying and assisting in the development of area leadership; and (6) attending various community meetings.<sup>130</sup> It will be interesting to see how this social service program operated by one person compares with the more heavily staffed programs of the rent supplement sponsors discussed above.

As the above discussion indicates, the BMIR program may be coming of age through its combination with the leased public housing program. While the utilization of the program provides considerable assistance to nonprofit sponsors planning to lease units to public housing and other low-income tenants, it should be expanded for utilization in conjunction with the rent supplement program as well. In addition, the requirement of a workable plan approved by the governing body of the community has led to the result that suburban areas wishing to exclude section 221(d)(3) projects have been able to effectively prevent the undertaking of such projects within their community. While in theory the requirement of a workable plan make sense, because it requires a consideration of the total needs of a city, in practice it has led to the exclusion of most government housing programs from the suburbs. In operation the requirement merely lets a community decide the income level of its residents. Clearly, in view of the great need for additional low- and moderate-income housing, such a justification is inadequate to support the workable plan requirement. Moreover, increasing the supply of decent, safe, and sanitary housing would facilitate community development and improvement.

To supplement and perhaps eventually to replace section 221(d)(3) assistance for rental housing, Congress enacted new section 236<sup>131</sup> of the National Housing Act as part of its 1968 housing legislation. Rather than assisting BMIR mortgagors funded primarily through federal sources, section 236 provides a supplement for interest payments made on a commercial mortgage undertaken by a nonprofit or other housing sponsor to finance low-income hous-

---

<sup>130</sup> Interview with Gail Boyer, Administrative Assistant to John Fockler, President of Hough Development Corporation, in Cleveland, Mar. 13, 1969. Mrs. Boyer provided the author with a copy of the job description for the community worker.

<sup>131</sup> 12 U.S.C.A. § 1715z-1 (1969).

ing projects. The federal subsidy is paid directly to the commercial mortgagee (usually an established lending institution) and reduces the mortgagor's interest costs on market rate FHA insured project mortgages. The interest reduction payments will reduce rentals to a basic charge, and a tenant will either pay the basic charge or such greater amount as represents 25 percent of his income, but not in excess of the charges which would be necessary without any interest reduction payments.<sup>132</sup>

To be eligible, a family's income at the time of initial occupancy may not exceed 135 percent of the maximum income limits for public housing in the locality,<sup>133</sup> nor can it exceed 90 percent of the maximum income limits for BMIR housing in the area.<sup>134</sup> In determining a family's annual income, there is a deduction, similar to that for the rent supplement recipients, of \$300 for each minor child who is a member of the houseowner's immediate family and living with him.<sup>135</sup> Income of minors is not included in the family's income for this computation, unlike its treatment under the public housing program. The asset limitations under section 236 are similar to the asset limitations for the rent supplement program, that is, family assets cannot exceed \$2000 for a purchaser under 62 years of age or \$5000 for a person who is 62 or older.<sup>136</sup> Thus, the section 236 program is directed to a more prosperous group than the people receiving rent supplements; the programs are complementary. As former HUD Secretary Weaver put it:

The section 235 [which provides for homeowner mortgage assistance<sup>137</sup>] and 236 programs are well-designed to serve lower moderate income families, and thus to complement existing public housing and rent supplement programs for low-income families. Many families with incomes moderately above the public housing income limits are badly in need of improved housing and are unable to obtain it in the private market. The BMIR type income limits which would apply to the section 235 and 236 programs would assure that the programs would not encroach on the private market. This

---

<sup>132</sup> Section 236(f), *id.* § 1715z-1(f).

<sup>133</sup> Section 236(i) (2), *id.* § 1715z-1(i) (2).

<sup>134</sup> However, 20 percent of the authorized assistance payments can be made on behalf of families whose incomes at the time of initial occupancy exceed 135 percent of the maximum public housing limits. In addition, "[t]he limitations prescribed in this paragraph shall be administered by the Secretary so as to accord a preference to those families whose incomes are within the lowest practicable limits for obtaining rental accommodations in projects assisted under this section." Section 236(i) (2), *id.* § 1715z-1(i) (2).

<sup>135</sup> Section 236(m), *id.* § 1715z-1(m).

<sup>136</sup> See notes 143-44 *infra* & accompanying text.

<sup>137</sup> See notes 140-49 *infra* & accompanying text.

approach would also make possible a better social and economic mix in the individual projects, and avoid stratification at the lowest income levels.<sup>138</sup>

Thus the new interest subsidy programs do not need to be in conflict with the rent supplement program. They can be utilized in conjunction with it in the attempt to provide adequate housing for all families.

### C. Mortgage Assistance for Homeowners

In addition to assisting rental housing projects, federal programs have offered aid to low- and moderate-income home purchasers. Under section 221(h) of the National Housing Act<sup>139</sup> BMIR loans are available to low- and moderate-income purchasers of rehabilitated housing. Extending the scope of home purchasers' assistance, Congress enacted new National Housing Act section 235<sup>140</sup> to provide interest supplements to low-income purchasers of new and rehabilitated housing and to establish the policy that federal assistance be afforded home purchaser projects as well as those providing decent low-cost rental units. Under this program, the Secretary of HUD is authorized to enter into contracts with the purchaser's mortgagee (normally a commercial lending institution) to make payments which will reduce the amount of interest paid by the family for a market rate FHA insured home mortgage.<sup>141</sup> The payments cover the difference between 20 percent of the family's monthly income and the required monthly payment under the mortgage. However, the subsidy may not reduce the mortgage interest below 1 percent per annum.<sup>142</sup>

The income qualifications for home purchasers with section 235 assistance are identical to those for section 236 tenants,<sup>143</sup> except that purchasers are allowed an additional allowance of \$500 in assets for

---

<sup>138</sup> 1968 Senate Hearings, *supra* note 121, at 1313-14.

<sup>139</sup> 12 U.S.C. § 1715l(h) (Supp. III, 1968).

<sup>140</sup> 12 U.S.C.A. § 1715z (1969).

<sup>141</sup> Contracts for assistance are authorized subject to approval in appropriation acts in the amount of \$75 million annually prior to July 1, 1969. This amount is increased by \$100 million on July 1, 1969, and by \$125 million on July 1, 1970. 12 U.S.C.A. § 1715z(h)(1) (1969). In contrast, the amount authorized for rent supplements for fiscal year ending July 1, 1969 is \$40 million and for fiscal year ending July 1, 1970 is \$100 million. Housing and Urban Development Act of 1968, § 202, 12 U.S.C.A. § 1701s (1969).

<sup>142</sup> Section 235(c)(2), 12 U.S.C.A. § 1715z(c)(2) (1969).

<sup>143</sup> See notes 133-36 *supra* & accompanying text. However, the \$500 asset exclusion may also be made applicable to section 236 tenants by future regulation.

each dependent plus an amount equal to the applicant's share of the mortgage payment for 1 year.<sup>144</sup> In order to be eligible for assistance payments under section 235, the homeowner must either own a dwelling financed with a mortgage insured under section 235(i) or section 237 in the case of marginal credit mortgagors, or be a member of a cooperative association operating a housing project.<sup>145</sup> The housing may be located almost anywhere for there is no workable plan requirement as there is in the rent supplement program. FHA approval must be obtained prior to beginning construction or rehabilitation of a new or substantially rehabilitated single family dwelling.<sup>146</sup> The purchase of two family dwellings is also possible with FHA-approval and the assistance of a nonprofit sponsor. In order to receive assistance with the purchase of a condominium, the building's construction must have been financed with an FHA insured mortgage, the building must have more than 11 units, and each unit must not have had previous occupants.<sup>147</sup> In addition, in order to qualify for assistance, the amount of the mortgage must be within the maximum mortgage amount determined by the local FHA within the statutory guidelines.<sup>148</sup> Finally, the family must make a down payment of at least \$200, if its income is un-

---

<sup>144</sup> U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, HOMEOWNERSHIP FOR LOWER INCOME FAMILIES (SECTION 235) 13 (1968) [hereinafter cited as HUD HANDBOOK]. In addition, there is an exclusion for unusual or temporary income of up to 5 percent of total family income for social security withholding and similar deductions, departure of a secondary wage earner, or other income which will be discontinued. *Id.* at 12. These regulations are authorized by section 235(b): "To qualify for assistance payments the homeowner or the cooperative member shall be of lower income and satisfy eligibility requirements prescribed by the Secretary . . ."

<sup>145</sup> HUD HANDBOOK, *supra* note 144, at 3.

<sup>146</sup> *Id.* Only 25 percent of the contracts authorized to be made before July 1, 1969 may be applied to existing housing, and the percentage decreases to 15 percent for the fiscal year ending July 1, 1970 and to 10 percent for the following year. 12 U.S.C.A. § 1715z(h)(3) (1969).

<sup>147</sup> HUD HANDBOOK, *supra* note 144, at 4. However, an existing single family dwelling or family unit within an existing condominium project will qualify if it is to be occupied by either (1) a family displaced by urban renewal or other governmental action, or by a major disaster, or (2) a family moving from low-rent public housing, or (3) a family with five or more minor children (under 21 years of age) living in the household. In addition, a dwelling unit released from a multifamily mortgage insured under section 236 or released from a multifamily project receiving federal rent supplement assistance will qualify. *Id.* at 4.

A principal reason for the requirement of new construction is to promote an increase in the supply of decent, safe, and sanitary housing.

<sup>148</sup> The mortgage cannot exceed \$15,000 for a single family dwelling or family unit in a condominium or cooperative. However, in high-cost areas, a higher maximum mortgage amount may be established but not to exceed \$17,500. In addition, for large families (five or more persons), the maximum mortgage limit is \$17,500 or up to \$20,000 in a high-cost area. 12 U.S.C.A. § 1715z(b) (1969).

der 135 percent of the maximum income limits for local public housing and 3 percent of acquisition costs in other cases.<sup>149</sup>

In evaluating the home purchase assistance programs, the question should be raised as to the wisdom of encouraging individuals in the income range of \$3000 to \$7000 to acquire a home. Should they be required to sell their new homes after a few years their thin equities will probably be wiped out. Not only will they be ill-equipped financially to meet the loss of their investment, but they will also suffer psychologically from having the promised dream of homeownership evaporate in the foreclosure proceedings.

Furthermore, the question of the urgency of need must also be raised. Clearly, the 16 million metropolitan poor whose incomes are under \$3335 a year have a greater urgency of need for a housing subsidy than those whose incomes are between \$3335 and \$7000.<sup>150</sup> Even assuming a decision to assist both groups, should the amount of assistance be based upon a percentage of their income or should the bulk of the assistance be directed to the poorest groups? Based upon the criterion of urgency of need, clearly the major portion of the government's housing aid should be directed to the lowest income individuals. It is these individuals that private industry is least likely to assist, since they cannot afford to pay rents yielding a profit to the landlord. Therefore, since the interest subsidy programs assist families with incomes above public housing income limits, public housing and rent supplements or their equivalent must be continued for the benefit of the truly low-income families.

#### IV. ANOTHER LOOK AT RENT SUPPLEMENTS

The arguments in favor of the rent supplement program were well set forth in former President Johnson's speech in which he requested the initial funding program. In that speech, President Johnson cited the following five significant potential advantages which the rent supplement program had over low-interest loan programs: (1) its flexibility permits the government to assist a much broader range of income than previously was possible; (2) the assistance payment is keyed to the income of the family, thereby permitting those with lower incomes to receive greater supplements than those with lesser needs; (3) the amount of the supplement can be reduced as family income rises and ended when income reaches an adequate

---

<sup>149</sup> 12 U.S.C.A. § 1715z(i)(3)(C)(i) (1969). The down payment may be applied to closing costs.

<sup>150</sup> 1968 *Senate Hearings*, *supra* note 121, at 1313-14.

level; (4) families whose incomes have risen above the point of need will no longer be evicted; and (5) the program permits the encouragement of housing in which families of different incomes, and of different age groups, can live together.<sup>151</sup> In this speech, President Johnson expressed his belief that in the long run the rent supplement program would become the principal governmental tool in meeting urban housing needs. He predicted that the rent supplement program would finance more than 500,000 homes over the next 4 years "while improving our ability to make these homes serve the social needs of those who live in them."<sup>152</sup> While the paucity of congressional appropriations for the program has prevented the anticipated large scale use of rent supplement assistance that President Johnson predicted, nevertheless, the program still provides an effective weapon in solving the crisis of the cities — indeed it may provide the most effective weapon. One of the major studies of civil disorders in the United States indicates that social factors more than economic factors lie at the foundation of the current wave of civil disturbances.<sup>153</sup> Consequently, the social services provided along with rent supplement assistance may turn out to be quite useful in helping to solve the crisis in the cities on more than one level.

In reviewing the efficacy of the rent supplement program, it should be kept in mind that the program is not designed to replace other housing assistance programs. Ideally, it will work in harmony with these other programs. Former HUD Secretary Weaver has explained how the various programs related to diverse income groups could work together.<sup>154</sup> He pointed out that public housing serves the poorer elements in the population, while the BMIR program assists moderate-income families. He envisioned the rent supplement program as aiding primarily the income groups between public housing income limits and those with sufficient incomes to purchase a home.<sup>155</sup> According to former Secretary Weaver, the

---

<sup>151</sup> 1965 *House Hearings*, *supra* note 5, pt. 1, at 72. This program, President Johnson further noted, "will make it unnecessary for the government to assist and even require the segregation by income level which detracts from the variety and quality of urban life." *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS ch. 4 (New York Times ed. 1968).

<sup>154</sup> See 1965 *House Hearings*, *supra* note 5, pt. 1, at 229.

<sup>155</sup> *Id.* Mr. Weaver illustrated his point with an example of the comparative costs of a rent supplement program and an alternative program of direct loans at a 3 percent interest rate. The figures for 100 housing units over a 4-year period are as follows:

advantage of the rent supplement program over the low-interest rate direct loan program is that the rent supplement program is able to provide significantly lower rentals and thus help poorer citizens.<sup>156</sup>

The bulk of the criticism of the rent supplement program has come from public housing enthusiasts. The testimony of Mr. Ira S. Robbins, president of the National Association of Housing and Re-development Officials, is illustrative: "When you get two types of cash subsidy housing, public housing and the rent subsidized housing, in a locality, they ought to be administered through the same agency, otherwise you may have different standards of tenant selection and qualifications generally. Secondly, you may have some shopping around by people who are eligible for both."<sup>157</sup> He expressed concern that nonprofit sponsors would not select "problem" tenants. However, as noted above, public housing administrators also dislike having problem tenants and have the power to deny them admission or to evict them. Mr. Robbins also deplored the failure of the rent supplement program to utilize local housing authorities in the selection of tenants and the checking of incomes, since in his view "these are the agencies that know most about low-income families and their needs in the community."<sup>158</sup> However, it can be argued that one of the principal benefits of the rent supplement program is the involvement of community groups as non-profit sponsors and that, as a result of their position in the community and with FHA assistance, they are adequately equipped to handle tenant selection and income checks. Moreover, the guide-

---

	<i>Rent Supplement</i>	<i>Direct Loans</i> (3 percent)
Aggregate rent Supplements over 40 years -----	\$944,000	
Net interest cost to Treasury over 40 years -----		\$371,000
Lowest income groups served:		
Elderly -----	\$ 3000	\$ 5400
Nonelderly -----	\$ 3500	\$ 6100

Thus the rent supplement program is able to reach significantly lower income groups than does the direct loan program. Comparative figures for the interest subsidy program were not available at the time this article was prepared. However, as the previous discussion of the interest subsidy program indicates, both the cost of the program and the income group served are higher than the figures for either of the above programs. *Id.* at 235.

<sup>156</sup> *Id.* at 258. Furthermore, as finally enacted the rent supplement program services the same low-income group as the public housing program, 12 U.S.C. § 1701s(c) (1) (Supp. III, 1968).

<sup>157</sup> 1965 House Hearings, *supra* note 5, pt. 1, at 447.

<sup>158</sup> *Id.*



lines for the administration of the rent supplement program in the foregoing areas are more flexible than those applied to public housing, and thus administrators lacking preconceptions about the standards are needed. Criticism has also come from those who fear that the program will be used as a tool for integration; other criticisms rest on grounds of expense, inequitable allocation of subsidies, and a preference for nonparticipation by the federal government in additional housing ventures.<sup>159</sup>

In addition, proponents of the interest subsidy programs may press for more reliance on those programs to solve the low-income housing shortage than upon the rent supplement program. However, as has been pointed out above, the interest subsidy program generally reaches a higher income group than the rent supplement program. Therefore, they should be utilized together as tools to solve the problem.

Overall, the principal arguments in favor of the rent supplement program follow the lines suggested by former President Johnson. First, it will increase the supply of good housing available to low-income families. The need for this increased supply is clear from the fact that 30 million American families with four members have incomes of less than \$3300 a year, and over 15 million occupy dwellings that are either substandard or overcrowded.<sup>160</sup> Second, the rent supplement program enables tenants to stay in their units even though their incomes increase. Public housing differs in that a tenant may be evicted when his income reaches a certain maximum amount.<sup>161</sup> Additionally, under rent supplements the amount of supplement decreases as the tenant's income increases. Third, private industry can play a key role as sponsor or builder of the projects. Fourth, the program provides an opportunity for economic and thus probably racial integration if communities will accept the benefits of the program, or if the workable plan requirement is eliminated.

### CONCLUSION

The results of the initial operation of the rent supplement program lend support to both its advocates and critics. The supply of

---

<sup>159</sup> See *id.*

<sup>160</sup> 1968 Senate Hearings, *supra* note 121, at 749-50.

<sup>161</sup> Under current public housing regulations, over-income occupants may remain if the local public housing authority determines the occupants cannot obtain suitable housing in the community.

decent housing for low-income families has been increased. However, the program at present provides sizable benefits for only the few tenants selected from the many qualified for supplement assistance. Perhaps a direct cash payment of a lesser amount than the present rent supplement to all persons without sufficient income to pay for decent housing (accompanied by strict code enforcement) would be more equitable than the present program's selection of a few fortunate beneficiaries. However, until such a concept becomes politically acceptable, programs such as the rent supplement and the new interest subsidy should be encouraged in view of their more dignified treatment of the poor (while meeting a housing need) than public housing. Additionally, the rent supplement program should be expanded to permit assistance to families in the lowest income levels, even those below the public housing requirements, and also reach above the public housing limits to assist those not quite able to buy a home. Armed with an arsenal of programs designed to assist the poor of all income levels, the nation's attack on the shortage of decent, safe, and sanitary housing can be carried out and the goals of an adequate housing supply for individuals of all incomes achieved.

Private industry must be encouraged to continue its participation in the solution of the urban housing problem through programs, such as the rent supplement and the interest subsidy programs, because often industrial efficiency and innovative ability (as in designing prefabricated housing)<sup>162</sup> can provide substantial increases in the available housing at reduced costs. While presently only a few people benefit from rent supplements, the solution to the housing problem is not found in abandoning a useful program. Rather, the solution will be found in the experimental use of innovative programs, followed by widespread application of those programs which prove most successful. With adequate funding and staffing the rent supplement program can be a success in both social and economic terms.

---

<sup>162</sup> See, e.g., *Cleveland Plain Dealer*, Sept. 3, 1968, at 5, col. 1; *Id.*, Jan. 23, 1969, at 24, col. 6.